

Surface Mining Reclamation and Enforcement, Interior

§ 795.11

§ 795.9 Program services and data requirements.

(a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination and statement and provide other services referenced in paragraph (b) of this section for eligible operators who request assistance.

(b) The program administrator shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for:

(1) The determination of the probable hydrologic consequences of the surface mining and reclamation operation in the proposed permit area and adjacent areas, including the engineering analyses and designs necessary for the determination in accordance with §§ 780.21(f), 784.14(e), and any other applicable provisions of this chapter;

(2) The drilling and statement of the results of test borings or core samplings for the proposed permit area in accordance with §§ 780.22(b) and 784.22(b) and any other applicable provisions of this chapter;

(3) The development of cross-section maps and plans required by §§ 779.25 and 783.25;

(4) The collection of archaeological and historic information and related plans required by §§ 779.12(b) and 783.12(b) and §§ 780.31 and 784.17 and any other archaeological and historic information required by the regulatory authority;

(5) Pre-blast surveys required by § 780.13; and

(6) The collection of site-specific resources information, the production of protection and enhancement plans for fish and wildlife habitats required by §§ 780.16 and 784.21, and information and plans for any other environmental values required by the regulatory authority under the act.

(c) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.

(d) Data collected under this program shall be made publicly available in accordance with § 773.6(d) of this chapter. The program administrator shall de-

velop procedures for interstate coordination and exchange of data.

[48 FR 2272, Jan. 18, 1983, as amended at 48 FR 44780, Sept. 30, 1983; 59 FR 28168, May 31, 1994, as amended at 65 FR 79670, Dec. 19, 2000]

§ 795.10 Qualified laboratories.

(a) *Basic qualifications.* To be designated a qualified laboratory, a firm shall demonstrate that it—

(1) Is staffed with experienced, professional or technical personnel in the fields applicable to the work to be performed;

(2) Has adequate space for material preparation and cleaning and sterilizing equipment and has stationary equipment, storage, and space to accommodate workloads during peak periods;

(3) Meets applicable Federal or State safety and health requirements;

(4) Has analytical, monitoring and measuring equipment capable of meeting applicable standards; and

(5) Has the capability of collecting necessary field samples and making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, geologic, or analytical methods in accordance with the requirements of §§ 780.21, 780.22, 784.14 and 784.22 and any other applicable provisions of this chapter. Other appropriate methods or guidelines for data acquisition may be approved by the program administrator.

(6) Has the capability of performing services for either the determination or statement referenced in § 795.9(b).

(b) *Subcontractors.* Subcontractors, may be used to provide some of the required services provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified by the program administrator.

§ 795.11 Assistance funding.

(a) *Use of funds.* Funds specifically authorized for this program shall be used to provide the services specified in § 795.9 and shall not be used to cover administrative expenses.

(b) *Allocation of funds.* The program administrator shall establish a formula for allocating funds to provide services for eligible small operators if available

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funds are less than those required to provide the services pursuant to this part.

§ 795.12 Applicant liability.

(a) A coal operator who has received assistance pursuant to § 795.9 shall reimburse the regulatory authority for the cost of the services rendered if:

(1) The applicant submits false information, fails to submit a permit application within 1 year from the date of receipt of the approved laboratory report, or fails to mine after obtaining a permit;

(2) The program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following

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the date on which the operator is issued the surface coal mining and reclamation permit; or

(3) The permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the 300,000 ton production limit during the 12 months immediately following the date on which the permit was originally issued. Under this paragraph the applicant and its successor are jointly and severally obligated to reimburse the regulatory authority.

(b) The program administrator may waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith.

[48 FR 2272, Jan. 18, 1983, as amended at 59 FR 28168, May 31, 1994]

SUBCHAPTER I [RESERVED]